

**Enrolled Minutes of the One Hundred-Third Regular or Special Meeting  
For the Twenty-Eighth Highland Town Council  
Regular Plenary Meeting  
Monday, November 25, 2019**

The Twenty-Eighth Town Council of the Town of Highland, Lake County, Indiana met in a regular meeting on Monday, November 25, 2019 6:34 O'clock P.M. in the regular place, the Highland Municipal Building, 3333 Ridge Road, Highland, Indiana.

Pursuant to HMC Section 2.05.130(A)(2), the Town Council considered and reviewed the agenda in an informal proceeding conducted in the anteroom to the plenary meeting room. Once completed the Town Council moved to the plenary meeting room. Silent roll call confirmed that Councilors Bernie Zemen, Mark Herak, Dan Vassar, Konnie Kuiper and Steve Wagner were present and there was a quorum.

The Town Council President, Steve Wagner presided at the plenary meeting. The Town Clerk-Treasurer, Michael W. Griffin, was present to memorialize the proceedings. The meeting was opened with The Town Council President reciting the Pledge of Allegiance to the Flag of the United States of America and offering a prayer.

**Roll Call:** Present on roll call were Councilors Bernie Zemen, Mark Herak, Dan Vassar, Konnie Kuiper and Steve Wagner. The Clerk-Treasurer, Michael W. Griffin was present to memorialize the proceedings. A quorum was attained.

**Additional Officials Present:** Rhett L. Tauber, Esq., Town Attorney; John M. Bach, Public Works Director; Peter Hojnicky, Metropolitan Police Chief; Alex M. Brown, CPRP, Parks and Recreation Superintendent; William R. Timmer, Jr., CFOD, Fire Chief; and Kathy DeGuilio-Fox, Redevelopment Director; were present.

*Also present:* Larry Kondrat of the Board of Waterworks Directors; Ed Dabrowski IT Director (Contract); and Tom Black, Town Councilor Elect Ward 4; were also present.

*Guest:* Robin Carlascio of the Idea Factory; and Linda Johnston, Branch Manager of the Highland Branch of the Lake County Public Library were also present.

**Minutes of the Previous Meetings:** The minutes of the regular plenary meeting of 11 November 2019 were approved by general consent.

**Special Orders:**

1. **Consideration of Proposed Additional Appropriations: (*non-controlled funds*) Proposed Additional Appropriations in Excess of the 2019 Budget for the Gaming Revenue Sharing Fund in the amount of \$23,500.**
  - (a) **Attorney verification of Proofs of Publication: The TIMES 14 November 2019.** The Town Attorney verified that the proof of publication complied with IC 5-3-1.
  - (b) **Public Hearing.** The Town Council President called the public hearing to order. There were no comments. The hearing was closed.
  - (c) Action on **Appropriation Enactment No. 2019-53:** An Enactment Appropriating Additional Moneys in Excess of the Annual Budget for the GAMING REVENUE SHARING FUND, all pursuant to I.C. 6-1.1-18, and I.C. 36-5-3-5.

Councilor Herak introduced and moved the consideration of Enactment No. 2019-53 at the same meeting of its introduction. Councilor Zemen seconded. Upon a roll call vote, a unanimous vote being necessary, there were five affirmatives and no

negatives. The motion passed. The enactment could be considered at the same meeting of its introduction.

Councilor Herak moved the passage and adoption of Enactment No. 2019-53 at the same meeting of its introduction. Councilor Zemen seconded. Upon a roll call vote, a two-thirds vote being necessary, there were five affirmatives and no negatives. The motion passed. The enactment was passed and adopted at the same meeting of its introduction.

**Town of Highland  
Appropriation Enactment  
Enactment No. 2019-53**

**AN ENACTMENT APPROPRIATING ADDITIONAL MONEYS IN EXCESS OF THE ANNUAL BUDGET for the GAMING REVENUE SHARING FUND, ALL PURSUANT TO I.C. 6-1.1-18, and I.C. 36-5-3-5.**

**WHEREAS**, Following a public hearing advertised pursuant to I.C. 5-3-1, it has been determined that it is now necessary to appropriate more money than was appropriated in the annual budget for the **Gaming Revenue Sharing Fund**;

**WHEREAS**, It has been determined that such additional appropriations as may be approved by this enactment, will not increase the levies set under I.C. 6-1.1-17, as neither fund involves a property tax levy, all pursuant to I.C. 36-5-3-5;

**NOW, THEREFORE BE IT ENACTED** by the Town Council of the Town of Highland, Lake County, Indiana, as follows:

**Section 1.** That for the expenses of said municipality, the following additional sums of money are hereby appropriated and ordered set apart out of the **Gaming Revenue Sharing Fund** herein named and for the purposes herein specified, subject to the laws governing the same:

**GAMING REVENUE SHARING FUND**

Increase the following account:

091-0000-31002 Engineering Fees:	<u>\$ 23,500.00</u>
<i>Total Capital Expenses:</i>	<u>\$ 23,500.00</u>

**TOTAL for FUND: \$ 23,500.00**

**Section 2.** That the Clerk-Treasurer is hereby authorized and instructed to inform the Department of Local Government Finance of this action and that these monies be made available for expenditure pursuant to I.C. 6-1.1-18.

**Section 3.** That in satisfaction and for the purposes of the provisions set out in I.C. 36-5-2-9.6, I.C. 36-5-3-5, I.C. 36-5-4-2, this enactment shall be deemed properly filed and introduced before the Town Council at a regular or special meeting, properly called and convened pursuant to I.C. 5-1.5-14 *et seq.*

Introduced and Filed on the 25<sup>th</sup> Day of November 2019. Consideration on the same day or at same meeting of introduction sustained a vote of 5 in favor and 0 opposed, pursuant to IC 36-5-2-9.8.

**DULY ORDAINED AND ADOPTED** this 25<sup>th</sup> Day of November 2019, by the Town Council of the Town of Highland, Lake County, Indiana, having been passed by a vote of 5 in favor and 0 opposed.

**TOWN COUNCIL of the TOWN of  
HIGHLAND, INDIANA**

*/s/ Steve Wagner, President (IC 36-5-2-10)*

**ATTEST:**

*/s/ Michael W. Griffin, IAMC/MMC/CPFA/CPFIM/CMO  
Clerk-Treasurer (IC 33-42-4-1; IC 36-5-6-5)*

**Unfinished Business and General Orders:**

- 1. Proposed Enactment No. 2019-52:** A Special Enactment to Lawfully Approve Certain Disability Retirement Benefits as well as Defining Status for Police Officer John Swisher, who has been Granted a Disability Retirement for Catastrophic Injuries Incurred in the Line of Duty.

Councilor Herak introduced and moved the consideration of Enactment No. 2019-52 at the same meeting of its introduction. Councilor Vassar seconded. Upon a roll call vote, a unanimous vote being necessary, there were five affirmatives and no negatives. The motion passed. The enactment could be considered at the same meeting of its introduction.

Councilor Herak moved the passage and adoption of Enactment No. 2019-52 at the same meeting of its introduction. Councilor Vassar seconded. Upon a roll call vote, a two-thirds vote being necessary, there were five affirmatives and no negatives. The motion passed. The enactment was passed and adopted at the same meeting of its introduction.

Town of Highland  
ENACTMENT NO. 2019-52

**A SPECIAL ENACTMENT TO LAWFULLY APPROVE CERTAIN DISABILITY RETIREMENT BENEFITS AS WELL AS DEFINING STATUS FOR POLICE OFFICER JOHN SWISHER, WHO HAS BEEN GRANTED A DISABILITY RETIREMENT FOR CATASTROPHIC INJURIES INCURRED IN THE LINE OF DUTY.**

WHEREAS, The Town Council is the fiscal and legislative body of the Town of Highland, pursuant to IC 36-5 et sequitur;

WHEREAS, IC 36-1-3-2 confers upon all local units the powers that they need for the effective operation of government as to local affairs;

WHEREAS, IC 36-1-3-6 (b)(1) prescribes that any such exercise of power shall be authorized through enactment of an ordinance passed by the legislative body; and

WHEREAS, IC 36-1-4, sections 14 and 15 provide in pertinent parts for the establishment of a system of employment for any class of employee and for fixing the level of compensation of its officers and employees; and

WHEREAS, IC 36-5, Chapters 3 and 4 provide additional authority and guidelines for fixing the level of compensation of officers and employees in towns; and

WHEREAS, Police Officer First Class John Swisher, was on duty, responding to a call for service on December 10, 2016 at 12:57 a.m. heading northbound on the 9100 Block of Kennedy Avenue, Highland, when a southbound car operated by a legally intoxicated driver, crashed into him, head-on at a high rate of speed; and

WHEREAS, Police Officer First Class John Swisher, sustained catastrophic injuries, enduring several surgeries and medical interventions to repair many broken bones, experiencing protracted, extensive treatments and physical therapy from the date of the incident through the end of January 2018; and,

WHEREAS, Police Officer First Class John Swisher, has not been able to perform or return to any work including his duties as a Highland Police Officer, since the line of duty accident and attendance injuries from December 10, 2016 through the present date;

WHEREAS, The Town Council has been further advised that Police Officer First Class John Swisher applied for and received a determination from the State System Director regarding his catastrophic injuries sustained while on duty, his resulting permanent impairment, and his award of a line of duty disability pension, under IC 36-8-8 et seq.;

WHEREAS, The Town Council did pass and adopt Enactment No. 2018-38 on October 8, 2018 extending his eligibility for the group health benefits of the Town without payment of a premium, with the extension expiring on December 31, 2018; and,

WHEREAS, The Town Council now desires to take the proper steps to authorize and approve lawful continued coverage under the group medical and dental insurance plans, for a limited period of time that are provided under the provisions of the Compensation and Benefits Ordinance of the Town and the most recently adopted and effective wage and salary ordinance,

**NOW, THEREFORE, BE IT HEREBY ENACTED** by the Town Council of the Town of Highland, Lake County, Indiana, as follows:

**Section 1.** That the Town Council makes the following findings and determinations, pursuant to its authority under IC 36-1-4-16 to ratify the actions of officers *post hoc*, as well as the authority described in the preamble to this enactment:

(A) That the Highland Town Council finds and determines that Police Officer First Class John Swisher, was on duty, responding to a call for service on December 10, 2016 at 12:57 a.m. heading

northbound on the 9100 Block of Kennedy Avenue, Highland, when a southbound car operated by a legally intoxicated driver, crashed into him, head-on at a high rate of speed;

(B) That the Highland Town Council further finds and determines that Police Officer First Class John Swisher, sustained catastrophic injuries, enduring several surgeries and medical interventions to repair many broken bones, experiencing protracted, extensive treatments and physical therapy from the date of the incident through the end of January 2018;

(C) That the Highland Town Council still further finds and determines that Police Officer First Class John Swisher, has not been able to perform or return to any work including his duties as a Highland Police Officer, since the line of duty accident and attendance injuries from December 10, 2016 through the present date;

(D) That the Highland Town Council still further finds and determines that Police Officer First Class John Swisher has applied for and received a determination from the State System Director regarding his catastrophic injuries sustained while on duty, his resulting permanent impairment, and his award of a line of duty disability pension, under IC 36-8-8 generally and IC 36-8-8-13.3(f) in particular and has accepted the line of duty disability pension, *subject to appeal for sufficiency*;

(E) That the Highland Town Council still further finds and determines that Police Officer First Class John Swisher has exhausted his sickness disability/workers compensation paid time off as provided by Section 5.01.01 and Section 6.02.02 of the Compensation and Benefits Ordinance commonly called the Employee Handbook, as well as that provided in and first extended by Enactment No. 2018-32, which rendered continued compensation and benefits ending on September 22, and paid on September 28, further extended to December 31, 2018 by passage and adoption of Enactment No. 2018-38, and then further extended to December 31, 2019, by passage and adoption of Enactment No. 2018-57;

**Section 2.** That based upon the forgoing, the Town Council does hereby authorize and approve the following:

(A) That notwithstanding provisions of Section 6.07 (B), regarding the group health insurance plan for retired and separating public safety employees in the Compensation and Benefits Ordinance, Patrol Officer Swisher shall **not** be required to pay the employer's any share of the premium for the continuation of the group health or the group dental insurance benefit to the extent it's lawful;

(B) That this enactment further directs that the extension and continuation of the group medical and dental insurance benefit provided by this enactment shall conclude and cease on **December 31, 2020**, but that this extension shall be revisited by the Town Council at the end that period, unless subsequent action by the Town Council ensues;

**Section 3.** That the adoption of this enactment shall in no way be construed as a precedent for the subject department or any other department of the municipality, nor shall it be construed as creating an entitlement for any other workers in any other department, but rather the provisions in this enactment are specific, unique and particularly conferred for a public safety worker who has suffered and endured a unique, unusual, *profound and "catastrophic physical personal injury"* while in the line of duty;

**Section 4.** That authority under this enactment shall be seen as complimentary to and not in derogation of the authority of the Clerk-Treasurer under IC 36-5-6-6, and that the payments authorized under this enactment, are hereby deemed to be a type of expense identified under IC 36-5-4-12(b)(10) & (13).

Introduced and Filed on the 25<sup>th</sup> day of November 2019. Consideration on same day or at same meeting of introduction sustained a vote of 5 in favor and a vote of 0 opposed, pursuant to IC 36-5-2-9.8.

**DULY ORDAINED and ADOPTED** this 25<sup>th</sup> day of November 2019, by the Town Council of the Town of Highland, Lake County, Indiana, having been passed by a vote of 5 in favor and 0 opposed.

**TOWN COUNCIL of the TOWN of  
HIGHLAND, INDIANA**

/s/ Steven Wagner, President (IC 36-5-2-10)

**Attest:**

/s/Michael W. Griffin, IAMC/MMC/CPFA/CPFIM/CMO  
Clerk-Treasurer (IC 33-42-4-1;IC 36-5-6-5)

**2. Resolution No. 2019-50:** An Exigent Resolution Providing for the Transfer of Appropriation Balances from and among Major Budget Classifications in the Building and Inspection Department of the Corporation General Fund as Requested by the

Proper Officer and Forwarded to the Town Council for its action, pursuant To IC 6-1.1-18-6.

Councilor Herak moved the passage and adoption of Resolution No. 2019-50. Councilor Zemen seconded. Upon a roll call vote, there were five affirmatives and no negatives. The motion passed. The resolution was adopted.

TOWN OF HIGHLAND  
APPROPRIATION TRANSFER RESOLUTION  
RESOLUTION NO. 2019-50

AN EXIGENT RESOLUTION PROVIDING for the TRANSFER of APPROPRIATION BALANCES from and AMONG MAJOR BUDGET CLASSIFICATIONS in the BUILDING and INSPECTION DEPARTMENT of the CORPORATION GENERAL FUND as REQUESTED BY THE PROPER OFFICER AND FORWARDED to the TOWN COUNCIL for its ACTION PURSUANT TO IC 6-1.1-18-6.

WHEREAS, It has been determined that certain exigent conditions have developed since adoption of the original budget and it is now necessary to transfer certain appropriations into different categories than were initially appropriated for the various functions of the **Building and Inspection Department of the Corporation GENERAL Fund**;

NOW, THEREFORE BE IT RESOLVED by the Town Council of the Town of Highland, Lake County, Indiana as follows:

**Section 1.** That for the expenses of said municipality, the following appropriations are hereby transferred and set apart out of the funds hereinafter named for the purposes specified, subject to the laws governing the same, such sums herein transferred unless otherwise stipulated by law;

**Section 2.** That is has been shown that certain existing unobligated appropriations of the **Building and Inspection Department of the Corporation GENERAL Fund**, which are not needed at this time for the purposes for which originally appropriated, and may be transferred to a category of appropriation in order to satisfy an existing need, as follows:

CORPORATION GENERAL FUND

**Building and Inspection Department**

Reduce Account:

001-0006-33002 Miscellaneous Printing	\$ 279.90
<i>Total 300 Series Reductions:</i>	<i>\$ 279.00</i>

Increase Account:

001-0006-20001 Stationary & Printing	\$ 279.90
<i>Total 200 Series Increases</i>	<i>\$ 279.00</i>

**Total of Fund Decreases:** \$ 279.00

**Total of Fund Increases:** \$ 279.00

DULY RESOLVED and ADOPTED this 25<sup>th</sup> Day of November 2019 by the Town Council of the Town of Highland, Lake County, Indiana, having been passed by a vote of 5 in favor and 0 opposed.

TOWN COUNCIL of the TOWN of  
HIGHLAND, INDIANA

/s/Steven Wagner, President (IC 36-5-2-10)

Attest:

/s/Michael W. Griffin, IAMC/MMC/CPFA/CPFIM/CMO  
Clerk-Treasurer (IC 33-42-4-1; IC 36-5-6-5)

3. **Resolution No. 2019-51:** An Exigent Resolution Providing for the Transfer of Appropriation Balances from and among Major Budget Classifications in the Park Non-Reverting Capital Fund as Requested by the Proper Officer and Forwarded to the Town Council for its action ,pursuant To IC 6-1.1-18-6.

Councilor Herak moved the passage and adoption of Resolution No. 2019-51. Councilor Vassar seconded. Upon a roll call vote, there were five affirmatives and no negatives. The motion passed. The resolution was adopted.

TOWN OF HIGHLAND  
APPROPRIATION TRANSFER RESOLUTION  
RESOLUTION NO. 2019-51

AN EXIGENT RESOLUTION PROVIDING for the TRANSFER of APPROPRIATION BALANCES from and AMONG MAJOR BUDGET CLASSIFICATIONS in the PARKS NON REVERTING CAPITAL FUND as REQUESTED BY THE PROPER OFFICER AND FORWARDED to the TOWN COUNCIL for its ACTION PURSUANT TO IC 6-1.1-18-6.

WHEREAS, It has been determined that certain exigent conditions have developed since adoption of the original budget and it is now necessary to transfer certain appropriations into different categories than were initially appropriated for the various functions of the **PARK NON REVERTING CAPITAL Fund**;

NOW, THEREFORE BE IT RESOLVED by the Town Council of the Town of Highland, Lake County, Indiana as follows:

**Section 1.** That for the expenses of said municipality, the following appropriations are hereby transferred and set apart out of the funds hereinafter named for the purposes specified, subject to the laws governing the same, such sums herein transferred unless otherwise stipulated by law;

**Section 2.** That it has been shown that certain existing unobligated appropriations of the **Building and Inspection Department of the Corporation GENERAL Fund**, which are not needed at this time for the purposes for which originally appropriated, and may be transferred to a category of appropriation in order to satisfy an existing need, as follows:

PARK NON REVERTING CAPITAL Fund

Reduce Account:		
010-0000-46012-0017	Sharp Improvements	\$ 32,000.00
	<i>Total 400 Series Reductions:</i>	\$ 32,000.00
Increase Account:		
010-0000-33005-0012	Plan Update Services	\$ 32,000.00
	<i>Total 300 Series Increases:</i>	\$ 32,000.00
<b>Total of Fund Decreases:</b>		\$ 32,000.00
<b>Total of Fund Increases:</b>		\$ 32,000.00

DULY RESOLVED and ADOPTED this 25<sup>th</sup> Day of November 2019 by the Town Council of the Town of Highland, Lake County, Indiana, having been passed by a vote of 5 in favor and 0 opposed.

TOWN COUNCIL of the TOWN of  
HIGHLAND, INDIANA

/s/ Steven Wagner, President (IC 36-5-2-10)

Attest:

/s/ Michael W. Griffin, IAMC/MMC/CPFA/CPFIM/CMO  
Clerk-Treasurer (IC 33-42-4-1; IC 36-5-6-5)

- Resolution No. 2019-54:** A Resolution Authorizing, Establishing, Granting and Approving a License to Encroach upon the Public Way to *Carol F. Olthof and Shirley A. Olthof* for property located at *8625 Lioble Road*, Highland, Indiana, and to their Heirs, Successors, and Assigns.

Councilor Vassar moved the passage and adoption of Resolution No. 2019-54. Councilor Kuiper seconded. Upon a roll call vote, there were five affirmatives and no negatives. The motion passed. The resolution was adopted.

TOWN of HIGHLAND  
RESOLUTION NO. 2019-54

**A Resolution Authorizing, Establishing, Granting and Approving a License to Encroach upon the Public Way to Carol F. Olthof and Shirley A. Olthof for property located at 8625 Liable Road, Highland, Indiana, and to their Heirs, Successors, and Assigns**

**WHEREAS**, Carol F. Olthof and Shirley A. Olthof (Grantee) are the owners of property located in the Town of Highland, Lake County, Indiana, (Grantor) which is legally described as follows:

*The North 74 Feet of the South 438 Feet of the West Half of the Northwest Quarter of the Southeast Quarter of Section 22, Township 36 North, Range 9 West of the Second Principal Meridian, except the East 140 feet thereof in the Town of Highland, Lake County, Indiana, more commonly known as 8625 Liable Road, Highland Indiana.*

**WHEREAS**, The subject property lies north of a platted 60 foot, unimproved, public, right of way particularly illustrated in Exhibit A, attached hereto and incorporated herein;

**WHEREAS**, The subject right-of-way was platted 60 foot, unimproved, public right-of-way extension of Condit Street, which has not been improved for the purpose as originally platted;

**WHEREAS**, Carol F. Olthof and Shirley A. Olthof, have proposed and requested a "Right of Encroachment", hereinafter referred to as "license", to permit the encroachment of an existing driveway on the public right-of-way; and,

**WHEREAS**, The Town of Highland through its Town Council, has determined that such a license, which such an encroachment so long as such encroachment does not interfere with the Town of Highland's use of its right-of-way, would be acceptable,

**NOW, THEREFORE, BE IT HEREBY RESOLVED**, by the Town Council of Highland, Indiana as follows:

**Section 1.** That the proposed "License to Encroach", which is attached and made an exhibit to this resolution, is hereby approved and ratified in each and every respect;

**Section 2.** That the Town Council President is hereby authorized to execute the written License by his signature as thereto attested by the Clerk-Treasurer and that the License shall be recorded in the Office of the Recorder, Lake County, Indiana.

**DULY ADOPTED** by the Town Council of the Town of Highland this 25<sup>th</sup> day of November 2019, having been approved by the vote 5 in favor and 0 opposed.

**TOWN COUNCIL of the TOWN of  
HIGHLAND, INDIANA**

/s/ Steve Wagner, President (IC 36-5-2-10)

Attest:

/s/ Michael W. Griffin, IAMC/MMC/CPFA/CPRIM/CMO  
Clerk- Treasurer (IC 33-42-4-1; IC 36-5-6-5)

**LICENSE TO ENCROACH**

1. **Carol F. Olthof and Shirley A. Olthof (Grantee) are the owners of certain real estate legally described as follows:**

*The North 74 Feet of the south 438 Feet of the West Half of the West Half of the Northwest Quarter of the Southeast Quarter of Section 22, Township 36 North, Range 9 West of the Second Principal Meridian, except the East 140 feet thereof in the Town of Highland, Lake County, Indiana, more commonly known as 8625 Liable Road, Highland Indiana.*

2. **The Town of Highland (Grantor) maintains a 60' public right-of-way south of the Grantee's Property, identified as Condit Street.**

3. **In consideration of the conditions expressed herein, the Grantor hereby grants to the Grantee a License to Encroach upon a portion of the public right-of-way, hereinafter referred to as "Licensed Public-Right-of-Way," legally described as follows:**

*The North 60 Feet of the South 364 feet of the West Half of the West Half of the Northwest Quarter of the Southeast Quarter of Section 22, Township 36 North, Range 9 West of the Second Principal Meridian excepting there from the West 30 feet thereof, and also excepting the East 140 feet thereof, in the Town of Highland, Lake County, Indiana.*

4. **The License to Encroach is limited to the driveway existing at the time of this agreement, installed pursuant to the guidelines of the Highland Municipal Code, to encroach upon the Licensed Public Right-of-Way and that there shall be no other permanent structures constructed thereon, including but not limited to garages, sheds, swimming pool, decks, patios (concrete or otherwise), etc., with such**

driveway to be permitted to remain until such time as the Town may extend and improve the public right of way identified as Condit Street.

5. The Grantee agrees to defend, indemnify and hold the Grantor, its agents, officers, and employees harmless from any liability for any injury, claim or cause of action arising out of the encroachment onto the Licensed Public Right-of-Way.
6. The License to Encroach does not supersede the present or future rights, statutory or otherwise, of the Public Utilities, including but not limited to, the Northern Indiana Public Service Company, AT&T, Comcast, Highland Sanitary District, Highland, Water Works District or their respective heirs, successors, and assigns currently operating within the existing Public Right-of-way.
7. The Grantee agrees to maintain the Licensed Public Right-of-Way, without compensation, during the period that the License to Encroach is in full force and effect.
8. This License to Encroach shall be binding upon the heirs, successors, and assigns of the parties hereto.

**Grantor:**

**Town of Highland**

\_\_\_\_\_  
Steve Wagner

Attest:

\_\_\_\_\_  
Michael W. Griffin, Clerk-Treasurer

**Grantee:**

**Carol F. Olthof and Shirley A. Olthof**

\_\_\_\_\_  
*Carol F. Olthof*  
Carol F. Olthof

\_\_\_\_\_  
*Shirley A. Olthof*  
Shirley A. Olthof

State of Indiana

County of Lake

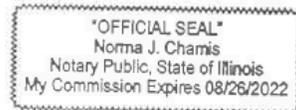
Before me, the undersigned, a Notary Public in and for the State of Indiana, County of Lake, personally appeared *Carol F. Olthof and Shirley A. Olthof* and acknowledged their execution of this License to Encroach on this 14<sup>th</sup> day of October, 2019, for the uses and purposes set forth therein.

\_\_\_\_\_  
*Norma J. Chamis*  
Notary Public

County of Residence: Cook Ill.

Commission Expires:

8/26/2022





**Whereas**, Town of Highland, Lake County, Indiana, by and through its Town Council and Town of Griffith, Lake County, Indiana, by and through its Town Council, each seek to enter into an agreement constructed pursuant to IC. 36-1-7-1, et seq. with and among each other to provide for the ability and flexibility to purchase and utilize supplies, and re-construction and improvement services for the mutual benefit of the participating entities, at a shared cost particularly related to the **Cline Avenue** a public way contiguous to and shared by both jurisdictions and funded by resources associated with the Local Road and Bridge Grant Fund of the State of Indiana; and

**Whereas**, The Town of Highland, Lake County, Indiana, by and through its Town Council, has determined that entry into a joint agreement with Town of Griffith, Lake County, Indiana, by and through its Town Council for the purchase and utilization of supplies, equipment and professional engineering services for the participating governmental units is in the best interests of the residents of the Town of Highland, and therefore, has determined that it is advisable to enter into and become a participating unit under such an agreement pursuant to applicable provisions of State Law.

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL of the TOWN of HIGHLAND, LAKE COUNTY, INDIANA:**

**Section 1.** That the Town Council of the Town of Highland, Lake County, Indiana, shall take all appropriate and legal measures to enter into an Interlocal Cooperation Agreement with the Town of Griffith, by and through its Town Council in order to purchase and utilize supplies, equipment and to engage in construction, reconstruction and improvement activities on behalf of the participating entities for the mutual benefit of the participating entities at a substantial savings for the following services related to the Resurfacing Project involving **Cline Avenue between Ridge Road and 100' feet south of 45<sup>th</sup> Avenue**.

**Section 2.** That the President of the Town Council is hereby authorized and permitted to enter into an Interlocal Cooperation Agreement for the purchase and utilization of equipment, supplies and services for the mutual benefit of the political subdivisions herein named, at shared costs, pursuant to the applicable provisions of Indiana Code 36-1-7-1, et seq., as amended from time to time; further, the Clerk-Treasurer is hereby authorized to attest the execution of said agreement by the President of the Town Council;

**Section 3.** That a copy of the Interlocal Cooperation agreement between and among the two parties shall be attached to this Resolution and incorporated herein by reference;

**Section 4.** That this Resolution shall take effect and be in full force and effect from and after its passage by the Town Council of the Town of Highland, Lake County, Indiana.

**Duly Adopted** by the Town Council of the Town of Highland, Lake County, Indiana, this 25<sup>th</sup> day November 2019. Having been passed by a vote of 5 in favor and 0 opposed.

**TOWN COUNCIL of the TOWN of  
HIGHLAND, INDIANA**

/s/ Steven Wagner, President IC 36-5-2-10

**Attest:**

/s/ Michael W. Griffin, IAMC/MMC/CPFA/CPFIM/CMO  
Clerk-Treasurer (IC 33-42-4-1;IC 36-5-6-5)

**INTERLOCAL COOPERATION AGREEMENT for the PURCHASE and UTILIZATION of  
CONSTRUCTION, SERVICES for MUTUAL BENEFIT CONNECTED with a HIGHWAY IMPROVEMENT  
PROJECT**

**Whereas**, Indiana Code 36-1-7-1, et seq., allows local government entities to make the most efficient use of their powers by enabling them to mutually purchase and utilize equipment, supplies and services for the mutual benefit of each other; and

**Whereas**, The Town of Highland, through its Town Council organized pursuant to and the Town of Griffith through its Town Council organized under IC 36-5 et seq., Lake County, Indiana are political subdivisions empowered by the aforesaid Interlocal Cooperation Act, as amended, with authority to contract on behalf of each other on a basis of mutual advantage so as to better provide public services and facilities at a lesser cost; and

**Whereas**, The Town of Highland, through its Town Council and the Town of Griffith through its Town Council all as participating entities now desire to enter into an agreement constructed pursuant to IC. 36-1-7-1, et seq., with Highland's Town Council, to provide for the ability to provide construction services for the mutual benefit of the participating entities, and at a shared cost;

**Now Therefore**, In consideration of the mutual terms, covenants, and conditions set forth herein, the Town of Highland, by and through its Town Council and the Town of Griffith by and through its Town Council hereby agree as follows:

**Section 1. DURATION.** The duration of this agreement shall be from July 1, 2019 through February 29, 2020, provided said agreement is adopted by Resolution by each of the governing boards of the relevant two aforesaid political subdivisions as participating entities, prior to that date, or up to and including February 29, 2020, and may be renewable each calendar year thereafter by agreement of the parties, evidenced by passage of similar resolutions, should the purposes of this agreement or Section 7 herein require it .

**Section 2. PURPOSE.** The purpose of this agreement is to authorize and allow the Town of Highland through its Town Council to engage in construction, reconstruction and improvement activities on behalf of the two participating entities for the mutual benefit of the participating entities at a substantial savings for the following services related to the Community Crossings Grant Project involving **improvement of Cline Avenue, Ridge Road to 100' south of 45<sup>th</sup> Avenue.**

**Section 3. ADMINISTRATION and AUTHORITY DELEGATION.** This agreement shall be administered through an *enhanced* entity comprised of the Town of Highland's Works Board, as defined by IC 36-1-2-24 (4). The powers of the enhanced entity shall be as follows:

(a) The powers of the enhanced entity shall be exercised by the Highland Works Board, as defined by IC 36-1-2-24 (4), and shall be construed to include all powers directly granted it under IC 36-5 et seq., those powers permitted under IC. 36-1-7-2 and only those powers exercisable by the participating entities individually and deemed necessary to carry-out the Improvement Project described in section 2 of this agreement.

(b) Change orders will be provided for review and concurrence by all participating entities. By adoption and approval of this agreement, the Town of Griffith has consented to make review and concurrence a ministerial task to be undertaken by a person or officer each will respectively authorize and, once chosen, will be empowered to evidence review and concurrence on behalf of the respective participating entity by letter transmitted to the Griffith Works Board acting as an enhanced entity. The Town of Highland by and through its Works Board, as defined by IC 36-1-2-24 (4), will finally approve all change orders and its proper officers will evidence approval by their signatures.

**Section 4. ACCOUNTS and FINANCE.** This agreement hereby delegates to the duly elected Clerk-Treasurer of the Town of Highland, the duty to receive, disburse, and account for all moneys of this undertaking pursuant to the terms of this agreement. The Clerk-Treasurer shall perform all usual duties associated with the office and as required by law.

**Section 5. TERMS.** In consideration of the mutual promises contained herein, it is further agreed as follows:

(a) The Town of Griffith by and through its Town Council agrees that the Highland Town Council, which is the municipal works under IC 36-1-2-24, shall serve as an enhanced entity behalf of the two participating entities. The enhanced entity shall provide administration and supervision over general construction services related to the improvement project described herein. As for those portions of the project related to public way resurfacing, and all other improvement installation, the enhanced entity will carry-out administration and supervision over general construction services on behalf of the participating entities, according to specifications outlined in the project specifications as drafted and duly approved for the improvement project described herein;

(b) The Town of Griffith through its Town Council agrees and shall contribute the amount of *Seventy-seven thousand, seven hundred thirty Dollars and sixteen cents (\$77,730.16)* to the Highland Works Board acting as an enhanced entity, payable from its Community Crossings Matching Grant Fund to be payable upon terms as the enhanced entity may direct, not later than **February 29, 2020**;

(c) The Town of Highland through its Town Council agrees and shall contribute the amount of *Seventy-seven thousand, seven hundred thirty Dollars and sixteen cents (\$77,730.16)* to the Highland Works Board acting as an enhanced entity, payable from proper Fund or Funds of the Town as it may identify, to be deposited in an appropriate fund, to be payable over the course of the project not later than **February 29, 2020**;

(d) Further, that the participating entities described in subdivision (c) of Section 5 of this agreement consent to pay the amount herein identified and any that may lawfully be incurred in consequence of this project as a *pro-rata* share of the net amounts due, allowing for that portion of the contribution that under the terms of the community crossings grant or otherwise, would be otherwise reimbursable to each participating entity individually but will be instead reimbursable to the enhanced entity;

(e) Still further, following the conclusion of construction herein, in the event that costs are below the initial estimates used to determine the initial contributions of the participating entities producing refunded savings, the enhanced entity will make a "good faith settlement" with the participating entities as an estimated pro-rata share of the net amounts due of the refunded savings, after allowances;

(f) Still further, following the conclusion of construction herein described, in the event that costs are above the initial estimates used to determine the initial contributions of the participating entities producing additional costs, the participating entities will contribute to the enhanced entity as a pro-rata share of the net amounts due of the additional costs, as identified;

**Section 7. MEETINGS and GOVERNING LAW.** In acting as an enhanced entity, the **Highland Works Board**, as defined by IC 36-1-2-24 (4) shall adhere to and comply with all applicable laws governing its action when acting as a Town Council;

**Section 8. TITLE.** Upon satisfactory completion and acceptance of the project, the enhanced entity is dissolved, and those improvements of public way and other infrastructure improved or installed in consequence of the **Cline Avenue Improvement Project** described herein, become property of the respective individual political subdivisions, to the extent those improvements lie within the particular lawful boundaries of the particular political subdivisions, all according to governing law.

**Section 9. COUNTERPARTS.** This Interlocal Agreement may be executed in several counterparts, each of which when so executed shall be deemed to be an original, and such counterparts, together, shall constitute but one and the same instrument, which shall be sufficiently evidenced by any such original counterpart.

**Section 10. RECORDING.** Before this agreement takes effect, it must be recorded with the Office of the Lake County Recorder. No later than sixty (60) days after it takes effect and is recorded, the agreement must be filed with the Office of the State Board of Accounts for audit purposes, all pursuant to I.C. 36-1-7-6.

**Participant Counterpart**

**EFFECTIVE DATE.** This agreement shall be effective under Paragraph 1 of this agreement after the same has been ratified by each of the participating entities by Ordinance or Resolution all pursuant to I.C. 36-1-7-2.

**IN WITNESS WHEREOF,** the parties have caused this Interlocal Agreement to be executed in their names and on their behalf as of the date first written above.

**TOWN of HIGHLAND, INDIANA**  
3333 Ridge Road, Highland, Indiana 46322-2089

By and Through its Town Council

By: \_\_\_\_\_  
Steven Wagner, President

Attest:

\_\_\_\_\_  
Michael W. Griffin, IAMC/ MMC/CPFA/CPFIM/CMO, Clerk-Treasurer  
Town of Highland, Indiana

Participant Execution Date:\_\_\_\_\_

**Participant Counterpart**

**EFFECTIVE DATE.** This agreement shall be effective under Paragraph 1 of this agreement after the same has been ratified by each of the participating entities by Ordinance or Resolution all pursuant to I.C. 36-1-7-2.

IN WITNESS WHEREOF, the parties have caused this Interlocal Agreement to be executed in their names and on their behalf as of the date first written above.

TOWN of GRIFFITH, INDIANA  
111 North Broad Street, Griffith, Indiana 46319

By and Through its Town Council

By: \_\_\_\_\_  
Rick Ryfa, President

Attest:  
  
\_\_\_\_\_  
John Volkman, Clerk-Treasurer  
Town of Griffith, Indiana

Participant Execution Date: November 12, 2019

**6. Resolution No. 2019-56: A Resolution Authorizing Execution of An Employment Agreement with Kelli A. Strbjak for the Position of Deputy Clerk-Treasurer.**

Councilor Herak moved the passage and adoption of Resolution No. 2019-56. Councilor Kuiper seconded. Upon a roll call vote, there were five affirmatives and no negatives. The motion passed. The resolution was adopted.

**TOWN OF HIGHLAND, INDIANA  
RESOLUTION NO. 2019-56**

**A RESOLUTION AUTHORIZING EXECUTION OF AN EMPLOYMENT AGREEMENT WITH KELLI A. STRBJAK FOR THE POSITION OF DEPUTY CLERK-TREASURER**

**Whereas**, The acting, serving and current Clerk-Treasurer has determined that Kelli A. Strbjak, M.P.A., has the qualifications and experience required for the Town of HIGHLAND to serve as its Deputy Clerk-Treasurer, having made the appointment pursuant to IC 36-5-6-7(a);

**Whereas**, Kelli A. Strbjak has indicated her intention to serve as the Highland Deputy Clerk-Treasurer;  
and,

**Whereas**, The Town of Highland, through its Clerk-Treasurer and its Town Council, desires to receive the benefit of Kelli A. Strbjak's knowledge, education, training, experience, and certifications by affirming her employment as Deputy Clerk-Treasurer of the Town of Highland, and to fix her form of compensation, benefits and other terms of employment as set forth hereinafter,

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF HIGHLAND, LAKE COUNTY, INDIANA** as follows:

**Section 1.** That an employment agreement between the Town of Highland and Kelli A. Strbjak, a copy of which is attached and incorporated in this resolution, is hereby authorized and approved in all respects;

**Section 2.** That the that the Town Council President and Clerk-Treasurer are hereby authorized to sign an employment agreement with Kelli A. Strbjak, a copy of which is attached and incorporated in this resolution.

**DULY RESOLVED and ADOPTED** this 25<sup>th</sup> Day of November 2019 by the Town Council of the Town of Highland, Lake County, Indiana, having been passed by a vote of 5 in favor and 0 opposed.

**TOWN COUNCIL of the TOWN of  
HIGHLAND, INDIANA**

/s/ Steven Wagner, President (IC 36-5-2-10)

ATTEST:

/s/Michael W. Griffin, IAMC/MMC/CPFA/CPFIM/CMO  
Clerk-Treasurer (IC 33-42-4-1; IC 36-5-6-5)

#### **EMPLOYMENT AGREEMENT**

THIS AGREEMENT made and entered into this 11 day of November, 2019, to be effective immediately, by and between the TOWN OF HIGHLAND, LAKE COUNTY, INDIANA, a municipal corporation (hereinafter referred to as "TOWN"), and **KELLI A. STRBJAK** (hereinafter referred to as "STRBJAK"), to witness the following:

WHEREAS, The acting, serving and current CLERK-TREASURER has determined that STRBJAK has qualifications and experience required for the Town of HIGHLAND to serve as its Deputy Clerk-Treasurer, having made the appointment pursuant to IC 36-5-6-7(a); and,

WHEREAS, STRBJAK has indicated her intention to serve as the Highland DEPUTY CLERK-TREASURER; and,

WHEREAS, The TOWN of HIGHLAND through its CLERK-TREASURER and its TOWN COUNCIL desires to receive the benefit of STRBJAK's knowledge, training, education, experience, and certifications by affirming her employment as Deputy Clerk-Treasurer of the Town of Highland, and to fix his form of compensation, benefits and other terms of employment as set forth hereinafter,

NOW, THEREFORE, for valuable consideration including the mutual promises of the parties, it is agreed as follows:

#### **1. COMPENSATION**

The TOWN employs STRBJAK as DEPUTY CLERK-TREASURER of the Town of Highland, Indiana at compensation in accordance with the most recently adopted Wage and Salary Ordinance of the Town of Highland and its Compensation and Benefits Ordinance, commonly called the Municipal Employees Handbook. STRBJAK agrees that the TOWN has the right and obligation to withhold federal, state, and other taxes from each payment in accordance with laws generally applicable to management personnel. **In addition, STRBJAK shall accept from Employer such compensation, which shall be governed by the Wage and Salary Ordinance and the Compensation and Benefits Ordinance commonly known as the Municipal Employees Handbook, as adopted or amended from time to time by the Employer.**

#### **2. TERM**

STRBJAK is an employee of the Town of Highland and shall serve at the pleasure of the Clerk-Treasurer, of the TOWN, pursuant to IC 36-5-6, subject to the provisions of termination as provided hereinafter, and further to the limitations of applicable state law. This agreement shall remain in full force and effect from its approval for an indefinite term unless amended or terminated as provided hereinafter.

#### **3. DUTIES**

STRBJAK accepts employment as DEPUTY CLERK-TREASURER of the TOWN of HIGHLAND, and agrees to be responsible to the Clerk-Treasurer and the proper officers of the TOWN. The duties of the Deputy Clerk-Treasurer are set forth and described in a job description, which is herein incorporated by reference and made a part hereof. These duties may change from time to time.

#### **4. NO CONFLICT OF INTEREST**

STRBJAK shall not undertake any activity which would be in conflict with this full-time employment or inimical to the best interests of the TOWN.

#### **5. HOURS OF WORK**

It is recognized that the STRBJAK is a salaried employee and must devote time outside the normal office hours on business for the TOWN, and to that end, STRBJAK shall be allowed to establish an appropriate work schedule to satisfy the responsibilities of her position. STRBJAK will be an "exempt confidential employee" as that term is defined by the Fair Labor Standards Act, exempt from overtime compensation standards. STRBJAK shall submit a time report on a form acceptable to the State Board of Accounts accounting for work hours per pay period, according to the requirements of the wage and salary ordinance, compensation and benefits ordinance, and relevant law.

#### **6. TRANSPORTATION**

STRBJAK will provide her own transportation during normal business hours.

#### **7. INPRS COVERED POSITION**

It is mutually understood between the parties that the position of DEPUTY CLERK-TREASURER is a "covered position" for the purposes of the defined benefit and the annuity, pursuant to IC 5-10.2 et seq; and IC 5-10.3. Employee shall be provided a retirement plan by the Employer from the Indiana Public Employees' Retirement Fund (PERF). The Employer's contribution to INPRS shall be equivalent to contributions made on behalf of other employees of the Employer who have managerial responsibilities. In addition, the Employer will withhold from Employee's gross salary an amount that the Employee may designate up to the annual limits authorized by the Internal Revenue payable to a 457 Deferred Compensation Plan.

**8. LEAVE GENERALLY, HOLIDAYS, LONGEVITY and VACATION**

- A. STRBJAK shall receive the leave benefits granted by the TOWN to its full-time employees under the Compensation and Benefits Ordinance of the Town of Highland commonly called the Municipal Employees Handbook, which are then applicable to employees who have managerial responsibilities.
- B. *Longevity.* Notwithstanding the provisions of the Compensation and Benefits Ordinance, commonly known as the Municipal Employee Handbook, Employer grants to STRBJAK the longevity benefit to which any regular employee would be entitled having completed two (2) or more years of regular full-time employment with the town, effective from November 11, 2019. At each anniversary of hire, STRBJAK will be treated as any other regular full-time employee with the Town having completed the number of actual years of service, plus two (2).
- C. For the purposes of all other benefits described in the Compensation and Benefits Ordinance commonly called the Municipal Employees Handbook, that are based upon the number of years of completed full-time service with the Town, STRBJAK will be entitled to the equivalent benefit value based upon (B).

**9. TERMINATION**

TERMINATION BY THE TOWN

- A. STRBJAK shall serve at the pleasure of the CLERK-TREASURER and the Clerk-Treasurer may terminate STRBJAK's employment at any time, for any reason or for no reason. During the Term of this Agreement, as set forth above, if the Clerk-Treasurer terminates this Agreement and STRBJAK's employment at a time when STRBJAK is willing and able to perform the duties of the DEPUTY CLERK-TREASURER, then the provision of Subparagraphs B,C, and D below shall apply.
- B. All salary payable to STRBJAK under this Agreement shall immediately cease, except that the Town shall pay to STRBJAK all salary and benefits earned but not paid as of the date of termination. In addition, TOWN shall pay to STRBJAK all amounts due and owing for vacation and separation leave. TOWN shall make such payments not later than the next regularly scheduled pay period after the date of termination.
- C. If the TOWN terminates this Agreement as provided in subparagraph A then the damages suffered by STRBJAK will be difficult to ascertain and measure with certainty, taking into account any alleged injury to STRBJAK's future employment prospects and/or reputation. Accordingly, the parties desire to establish an amount of liquidated damages, which will resolve and settle any future disputes between them regarding such termination. Therefore, if the TOWN terminates this Agreement, then not later than fourteen (14) days after the date of termination, the TOWN shall pay to STRBJAK liquidated damages in a lump sum equal to one (1) month's salary. STRBJAK agrees to accept such liquidated damages as full and complete settlement of all claims and causes of actions, which he may have against the TOWN or any of its officials, officers, agents, and employees arising out of such termination. STRBJAK agrees to execute and deliver to the TOWN, at the time of payment of the liquidated damages, a document releasing the TOWN, its officials, officers, agents and employees from all liability for damages, litigation expenses, court costs, and attorney fees arising out of such termination.
- D. If the CLERK-TREASURER terminates this Agreement as provided in subparagraph A because the Deputy Clerk-Treasurer has committed an act or omission which constitutes illegal or immoral conduct or misfeasance or malfeasance in office or other just cause for termination, then subparagraph C shall not apply.

TERMINATION BY THE EMPLOYEE

- A. STRBJAK may terminate this Agreement at any time, for any reason or for no reason, by delivering to the Town Council a written notice of termination not later than 60 days prior to the effective date of termination. If STRBJAK terminates this Agreement, then the provisions of subparagraph B, C, and D below shall apply.
- B. On the date of termination, all salary payable to the STRBJAK under this Agreement shall cease, except that the TOWN shall pay to STRBJAK all salary and benefits earned but not paid as of the date of termination. In addition, the TOWN shall pay to STRBJAK all amounts due and owing for

vacation leave and separation leave. The TOWN shall make such payments not later than the next regularly scheduled pay period payday after the date of termination.

- C. The TOWN shall not pay liquidated damages to STRBJAK and she shall not sign a release in favor of the TOWN.

**10. PROFESSIONAL DEVELOPMENT**

A. Subject to limits established in the approved annual budget, the Employer agrees to pay for professional dues, subscriptions, training, travel and subsistence of Employee necessary for his professional development and for the good of the Employer.

B. The Employer agrees to reimburse expenses of a non-personal, but job related nature incurred for the business of the Employer. The Clerk-Treasurer is authorized to disburse such moneys upon receipt of duly executed expense or petty cash vouchers, receipts, statements or personal affidavits.

**11. DEATH DURING EMPLOYMENT**

If STRBJAK dies during the term of this Agreement, the TOWN shall pay according to the provisions of the Compensation and Benefits ordinance commonly called the Municipal Employees Handbook, generally and Section 4.15 in particular.

**12. GENERAL PROVISIONS**

- A. This instrument contains the entire Agreement of the parties. It shall continue in force until it is changed or modified by an instrument in writing executed with the same formality or until such time STRBJAK is terminated or resigns as provided herein.
- B. This Agreement may not be assigned by either party without the written consent of the other party.
- C. If any provision, or any portion thereof, contained in this Agreement is held to be unconstitutional, invalid, or unenforceable the remainder of this Agreement, or portions thereof, shall be deemed severable, shall not be affected and shall remain in full force and effect.
- D. This Agreement may be amended only with the written consent of both parties.
- E. This Agreement shall be governed by the laws of the State of Indiana.

Approved this \_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
KELLI A. STRBJAK

\_\_\_\_\_  
Steven Wagner, Council President

Attest:

\_\_\_\_\_  
Michael W. Griffin, Clerk-Treasurer

- 7. **Works Board Order No. 2019-31:** An Order of the Works Board Authorizing and Approving Mutual Release and Cancellation of Agreements to Sell Real Estate for the property at 10030 and 10040 Kennedy Avenue, Highland, Indiana, and 10104 Kennedy Avenue, Highland, all pursuant to IC 36-1-4-5 and IC 36-1-10.5-5.

Councilor Herak moved the passage and adoption of Works Board Order No. 2019-31. Councilor Kuiper seconded. Upon a roll call vote, there were five affirmatives and no negatives. The motion passed. The works board order was adopted.

**An Order of the Works Board Authorizing and Approving Mutual Release and Cancellation of Agreements to Sell Real Estate for the property at 10030 and 10040 Kennedy Avenue, Highland, Indiana, and 10104 Kennedy Avenue, Highland, all pursuant to IC 36-1-4-5 and IC 36-1-10.5-5.**

**Whereas**, The Town Council as the fiscal body and purchasing agency for the Municipal Corporation did pass and adopt **Resolution No. 2019-38** at its meeting of September 23, 2019, in which it expressed interest in the possible acquisition of Highland properties located at 10030 and 10040 Kennedy Avenue, and 10104 Kennedy Avenue, and instructed the Public Works Director to acquire two appraisals of the properties pursuant to IC 36-1-10.5-5 et seq.;

**Whereas**, Pursuant to the foregoing, the Public Works Director engaged the appraisal services of Bochnowski Appraisal Company and Calumet Commercial Appraisals, Inc., both who are professionally engaged in making appraisals or are trained as an appraiser and licensed as a broker under IC 25-34.1, to appraise the fair market value of the property located at 10030 and 10040 Kennedy Avenue, Highland, Indiana, and 10104 Kennedy Avenue, Highland, Indiana;

**Whereas**, At its meeting of 23 September 2019, the Town Council did pass and adopt Works Board Order No. 2019-26, approving purchase of the properties at 10030 and 10040 Kennedy Avenue and 10104 Kennedy Avenue, Highland, contingent upon funding, all pursuant to IC 36-1-4-5 and IC 36-1-10.5-5;

**Whereas**, The Town Council at its meeting of October 14, 2019 following its public hearing, elected not to take action on Enactment No. 2019-44, which would have provided an appropriation to the Corporation Capital Fund to support the purchase of the identified properties owing to concerns about the extent of the watershed on these properties;

**Whereas**, The purchasing agent has performed further due diligence and has determined that the properties are no desirable for the proposed use;

**Whereas**, The Town Council as the Works Board of the Municipality, pursuant to Section 305.030(A) & (B)s of the HMC serves as purchasing agency for the Municipal Corporation;

**Whereas**, The Town Council now desires to decline and cancel the acquisition of the properties described herein and instead approve cancellation and releases regarding these properties,

**Now Therefore**, be it ordered by the Town Council of the Town of Highland, Lake County, Indiana, acting as the Works Board, as follows:

**Section 1.** That the purchase of the property located at **10104 Kennedy Avenue, Highland**, for a purchase price of **\$222,000.00** is now cancelled and the MUTUAL RELEASE AND CANCELLATION of AGREEMENT TO SELL REAL ESTATE between the Town of Highland as buyer and the *Alma A. Diehl Trust UTA as seller* is hereby approved in all respects;

**Section 2.** That the purchase of the property located at **10030 and 10040 Kennedy Avenue, Highland**, for a purchase price of **\$415,000.00** is now cancelled and the MUTUAL RELEASE AND CANCELLATION of AGREEMENT TO SELL REAL ESTATE between the Town of Highland as buyer and the *Janet J. Phillips Loving Trust as seller* is hereby approved in all respects;

**Section 3.** That the proper officer(s) of the municipality are hereby authorized to execute all documents necessary to implement the cancellation of the purchase;

**Be it So Ordered.**

Duly, Passed and Adopted by the Town Council of the Town of Highland, Lake County, Indiana this 25<sup>th</sup> day of November 2019 having passed by a vote of 5 in favor and 0 opposed.

**TOWN COUNCIL of the TOWN of  
HIGHLAND, INDIANA**

/s/ Steven Wagner, President (IC 36-5-2-10)

Attest:

/s/ Michael W. Griffin, IAMC/MMC/CFPA/CPFIM/CMO  
Clerk-Treasurer (IC 33-42-4-1; IC 36-5-6-5)

EXHIBIT 1

**MUTUAL RELEASE AND CANCELLATION OF  
AGREEMENT TO SELL REAL ESTATE**

THIS AGREEMENT made and entered into this 21st day of November, 2019, by and between the *Alma A. Diehl Trust UTA dated October 31, 1997, ("Seller") and the Town of Highland, Indiana, by and through its Town Council, ("Buyer")*.

**WITNESSETH THAT:**

**WHEREAS**, Seller and Buyer entered into a certain Agreement to Sell Real Estate dated September 23, 2019, regarding the real estate known as 10104 Kennedy Avenue, Highland, Indiana 46322, and legally described as follows:

S.33 T.36 R.9 3.00 Ac PT. (138.6 X 1030.77 X 238.35 X 836.66 FT.)

Parcel No. 45-07-33-176-024.000-026

Commonly known as: 10104 Kennedy Avenue, Highland, IN 46322

(the "Real Estate"). That a copy of said Agreement to Sell Real Estate (the "Agreement"), is attached hereto as Exhibit "A" and incorporated herein by reference; and

**WHEREAS**, Seller and Buyer desire to terminate the Agreement effective November 21, 2019.

**NOW, THEREFORE**, in consideration of the mutual promises and conditions hereinafter contained, it is mutually agreed by and between the parties hereto:

1. That the Agreement attached hereto as Exhibit "A", by and between the Seller and Buyer be, and the same is hereby cancelled, rescinded and terminated *in toto*, effective the 21st day of November, 2019.

2. The earnest money deposit in the sum of One Thousand Dollars (\$1,000.00) shall be retained by Seller and as further consideration herein, Buyer shall pay to Seller the sum of One Thousand Eight Hundred Twenty-Five Dollars (\$1,825.00).

3. That in consideration of the mutual relinquishment of the respective legal rights, and in consideration of the execution of this Mutual Release and Cancellation of Agreement to Sell Real Estate, each of the parties hereby expressly releases the other, their successors or assigns, from all liability for claims and demands arising out of that certain Agreement by and between Seller and Buyer.

**IN WITNESS WHEREOF**, we have set our hands and seals this 21st day of November, 2019.

**SELLER:**  
**ALMA A. DIEHL TRUST UTA**  
**DATED OCTOBER 31, 1997**

**BUYER:**  
**TOWN OF HIGHLAND, INDIANA**  
**BY AND THROUGH ITS TOWN**  
**COUNCIL**

\_\_\_\_\_  
By: ALMA A. DIEHL, Trustee

\_\_\_\_\_  
By: STEVEN WAGNER, President of  
Highland Town Council

EXHIBIT 2

**MUTUAL RELEASE AND CANCELLATION OF  
AGREEMENT TO SELL REAL ESTATE**

THIS AGREEMENT made and entered into this 12th day of November, 2019, by and between the *Janet J. Phillips Living Trust dated September 12, 2014, ("Seller")* and the *Town of Highland, Indiana, by and through its Town Council, ("Buyer")*.

**WITNESSETH THAT:**

**WHEREAS**, Seller and Buyer entered into a certain Agreement to Sell Real Estate dated September 24, 2019, regarding the real estate known as 10030 and 10040 Kennedy Avenue, Highland, Indiana 46322, and legally described as follows:

- Parcel 1: Lot 1 Phillips addition to the Town of Highland, Lake County, Indiana. Parcel No.: 45-67-33-176-021.000-026  
Commonly known as: 10040 Kennedy Avenue, Highland, IN 46322
- Parcel 2: A part of the east ½ of the west ½ of Section 33, Township 36, Range 9. (2.325 Acre)  
Parcel No. 45-07-33-176-018.000-026  
Commonly known as: 10040 Kennedy Avenue, Highland, IN 46322
- Parcel 3: The south 23.76' of part of 128.76' x 1222.03' x 151.51' x 1137.40' of the east ½ of the northwest ¼ Section 33, Township 36, Range 9 0.55 Acre.  
Parcel No. 45-07-33-176-017.000-026  
Commonly known as: 10030 Kennedy Avenue, Highland, IN 46322
- Parcel 4: The north 105' of the south 690.33' lying north of RR except the east 245' of the southeast ¼ of the northwest ¼ of Section 33, Township 36, Range 9 2.21 Acre.  
Parcel No. 45-07-33-176-016.000-026  
Commonly known as: 10030 Kennedy Avenue, Highland, IN 46322

(the "Real Estate"). That a copy of said Agreement to Sell Real Estate (the "Agreement"), is attached hereto as Exhibit "A" and incorporated herein by reference; and

WHEREAS, Seller and Buyer desire to terminate the Agreement effective November 12, 2019.

NOW, THEREFORE, in consideration of Ten Dollars (\$10.00) and in consideration of the mutual promises and conditions hereinafter contained, it is mutually agreed by and between the parties hereto:

1. That the Agreement attached hereto as Exhibit "A", by and between the Seller and Buyer be, and the same is hereby cancelled, rescinded and terminated *in toto*, effective the 12th day of November, 2019.

2. The earnest money deposit in the sum of One Thousand Dollars (\$1,000.00) shall be retained by Seller.

3. That in consideration of the mutual relinquishment of the respective legal rights, and in consideration of the execution of this Mutual Release and Cancellation of Agreement to Sell Real Estate, each of the parties hereby expressly releases the other, their successors or assigns, from all liability for claims and demands arising out of that certain Agreement by and between Seller and Buyer.

IN WITNESS WHEREOF, we have set our hands and seals this 12th day of November, 2019.

SELLER:  
JANET J. PHILLIPS LIVING TRUST  
DATED SEPTEMBER 12, 2014

  
By: SCOTT A. PHILLIPS, Trustee

BUYER:  
TOWN COUNCIL THE TOWN OF  
HIGHLAND, INDIANA

  
By: STEVEN WAGNER, President of  
Highland Town Council

2

**Comments or Remarks from the Town Council:**  
*(For the Good of the Order)*

- **Councilor Bernie Zemen:** *Chamber of Commerce Co-Liaison • IT Liaison • Liaison to the Board of Waterworks Directors • Liaison to the Community Events Commission.*

Councilor Zemen acknowledged the Redevelopment Director who offered an overview of redevelopment matters.

Councilor Zemen commended the annual Holiday Festival of Lights and Santa parade event conducted by the Community Events Commission, Saturday, November 30, 2019 at Main Square and Highway Avenue.

**Councilor Dan Vassar:** *Liaison to the Park and Recreation Board.*

Councilor Vassar acknowledged Ms. Linda Johnson, the Highland LCPL Branch Manager.

Councilor Vassar wished all a Happy Thanksgiving.

Councilor Vassar acknowledged the Parks and Recreation Superintendent who offered a survey of the parks and recreation programs underway, noting particularly that the annual Thanksgiving Day Event, the Pumpkin Plod possessed 800 registrations in advance of the race day.

Councilor Vassar acknowledged the Munster High School Students present as part of an assignment for a Government class.

- **Councilor Mark Herak:** • *Budget and Finance Chair* • *Liaison to the Board of Sanitary Commissioners* • *Town Board of Metropolitan Police Commissioners, Liaison.*

Councilor Herak wished all a Happy Thanksgiving.

Councilor Herak also acknowledged the Highland LCPL Branch Manager, who noted that the Lake County Public Library has purchased the former First Midwest Bank building on Highway Avenue. It was noted that the Library Board hoped to raze the existing building, extend the existing branch building and create additional parking.

Councilor Herak acknowledged the framed 1818 United States Flag with a 20 star field, that was the first to host a star representing Indiana and was actually flown as part of the 19 Lake county cities and towns observance of the 200<sup>th</sup> anniversary of Statehood for Indiana.

Councilor Herak acknowledged the Public Works Director who reported on leaf collection and forthcoming water asset management planning required by Indiana for eligibility for state assistance to upgrade and retrofit water infrastructure.

- **Councilor Konnie Kuiper:** • *Fire Department, Liaison* • *Chamber of Commerce Co-Liaison.*

Councilor Kuiper acknowledged the Fire Chief who again reported on a mutual aid incident working with the Town of Griffith.

**Councilor President Steve Wagner:** *Town Executive* • *Chair of the Board of Police Pension Trustees* • *Advisory Board of Zoning Appeals Liaison.*

The Town Council President welcomed the Students from Munster High School.

#### **Comments from Visitors or Residents:**

1. Elijah Aurand, Highland, asked about the status of the current banner program that features Highland High School athletes. He was advised the program was being extended to Kennedy Avenue.

**Payment of Accounts Payable Vouchers.** There being no further comments from the public, Councilor Vassar moved to allow the vendors accounts payable vouchers as filed on the pending accounts payable docket, covering the period November 11, 2019 through November 25, 2019, and to ratify the payroll dockets for the payday of November 8, 2019. Councilor Kuiper seconded. Upon a roll call vote, there were five affirmatives and no negatives. The motion passed. The accounts payable vouchers for the vendor docket were allowed, payments allowed in advance were ratified, and for all remaining invoices, the Clerk-Treasurer was authorized to make payment.

#### **Vendors Accounts Payable Docket:**

**General Fund, \$209,897.42; Motor Vehicle Highway and Street (MVH) Fund, \$51,278.05; Local Road and Street Fund, \$2,345.00; Law Enforcement Continuing Education and Training and Supply Fund, \$1,532.40; Information Communications Technology Fund,**

\$6,998.42; Civil Donation Fund, \$298.00; Indiana Bicentennial Legacy Project Fund, \$97.50; Police Pension Fund, \$69,700.82; Cumulative Capital Development Fund, \$3,181.00; Traffic Violations and Law Enforcement Agency Fund, \$6,000.00; Total: \$351,328.61.

**Payroll Docket for payday of November 08, 2019:**

**Council, Boards and Commissions, \$0.00; Office of Clerk-Treasurer, \$16,405.70; Building and Inspection Department, \$9,194.51; Metropolitan Police Department, \$123,623.78; Fire Department, \$3,439.16; Public Works Department (Agency), \$70,160.60; and Police Pension, \$0.00. Total Payroll: \$222,823.75.**

**Adjournment of Plenary Meeting.** Councilor Vassar moved that the plenary meeting be adjourned. Councilor Zemen seconded. Upon a vote *viva voce*, the motion passed. The regular plenary meeting of the Town Council of Monday, November 25, 2019 was adjourned at 7:27 O'clock p.m.

Michael W. Griffin, IAMC/MMC/CPFA/CPFIM/CMO  
Clerk-Treasurer

Approved by the Town Council at its meeting of \_\_\_\_\_, 2019.

Michael W. Griffin, IAMC/MMC/CPFA/CPFIM/CMO  
Clerk-Treasurer